

COST ANALYSIS HANDBOOK
FOR
SECTION 208 AREAWIDE WASTE TREATMENT MANAGEMENT PLANNING
FEDERAL ASSISTANCE APPLICATIONS



ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460
MAY 1975

NOTE

This document is not a replacement to the Act, the Regulations, the Guidelines or the official EPA Policy Statements. It is a supplement to these documents, showing typical examples of local responses to the 208 program. Any clarification and specific conditions applicable to a local area should be discussed with the EPA Regional 208 Coordinator. The examples in this handbook are based on new general grant regulations (40 CFR, Part 30 and 33) expected to be published in June of 1975.

PREFACE

This is the third in a series of Handbooks designed to provide local planning agencies assistance in implementing Section 208 of the Water Pollution Control Act Amendments. In carrying out the provisions of that Section, EPA has published the following regulations and documents:

- . EPA Grants Administration Manuals (April 7, 1972, and revisions.)
- . 40 CFR Part 30 - General Grant Regulations and Procedures.
- . 40 CFR Part 33 - Subagreement (to be effective 10 June, 1975.)
- . 40 CFR Part 35, Subpart F for Areawide Waste Treatment Management Planning Agencies, Grant Applications; Grants; Plan Contents and Approval.
- . Draft guidelines for areawide waste treatment management planning (May 1974.)
- . Area and agency designation handbook for Section 208 Areawide Waste Treatment Planning (January 1975.)
- . Work plan handbook for Section 208 Areawide Waste Treatment Management Planning (February 1975.)

The purpose of this handbook is to provide guidance for completing cost analysis of Section 208 Planning Grant Cost Proposals and of subagreements under Section 208 Planning Grants. The document also contains appendices with specific guidance concerning review of grantee accounting systems and procedures, subagreement systems and procedures, and the establishment of indirect cost rates.

The instructions are consistent with the above referenced EPA documents and with Federal Management Circulars 74-4 (Cost Principles Applicable to Grants and Contracts with State and Local Governments) dated July 19, 1974, and 74-7 (Uniform Administrative Requirements for Grants-in-aid to State and Local Governments) dated September 13, 1974. Those documents contain small revisions and updates to predecessor documents of the Office of Management and Budget Circulars A-87 and A-102, respectively.

This handbook was prepared by Peat, Marwick, Mitchell & Co. under subcontract to Centaur Management Consultants, Inc., with assistance from the Environmental Protection Agency staff responsible for grants management, audit, 208 Regional Coordinators, and the 208 Areawide Management Branch.



Mark A. Pisano
Director, Water Planning Division
Washington, D.C.

COST ANALYSIS HANDBOOK
FOR
SECTION 208 AREAWIDE WASTE TREATMENT MANAGEMENT PLANNING
(FEDERAL ASSISTANCE APPLICATIONS)

CONTENTS

	<u>PAGE</u>
PREFACE	i
INTRODUCTION	1
COST ANALYSIS	2
Part I - Application for Federal Assistance	2
Part II - Project Approval Information	4
Part III - Budget Information	6
EXHIBIT A - DIRECT LABOR COSTS	10
EXHIBIT B - FRINGE BENEFITS	10
EXHIBIT C - TRAVEL COSTS	12
EXHIBIT D - EQUIPMENT COSTS	12
EXHIBIT E - SUPPLIES	14
EXHIBIT G - INDIRECT COSTS	14
EXHIBIT F - SUBAGREEMENTS	16
F-1 - REVIEW OF THE GRANTEE'S METHOD OF PROCUREMENT	16
F-2 - REVIEW OF THE TYPE OF CONTRACT	18
F-3 - REVIEW OF THE WORK STATEMENT	20
F-4 - REVIEW OF THE ESTIMATE BY TASK	24
APPENDIX 1 - ADEQUACY OF THE GRANT APPLICANT'S ACCOUNTING SYSTEM AND PROCEDURES	27
APPENDIX 2 - ADEQUACY OF GRANTEE'S PROCUREMENT SYSTEM AND PROCEDURES	30
APPENDIX 3 - DEVELOPING AND APPROVING INDIRECT COST RATES COST ALLOCATION PLAN	41
APPENDIX 4 - TYPES OF CONTRACTS	48

September 13, 1974 - Federal Management Circular 74-7,
Attachment 0 - Procurement Standards

INTRODUCTION

In order to approve the grants, it is necessary that the grantee's systems are adequate and that the proposed costs are defined correctly and in sufficient detail. The guidance provided in this handbook will assist in reviewing the grantee's proposal and in completing the cost analysis.

This handbook describes the review process required to assess:

- . the grantee's systems for financial management and accounting; and
- . his planned system for contracting for services required in support of completing the planning grant.

Particular attention is focused on the importance of conducting pre-application reviews and conferences for reviewing and approving the grantee's subagreement and cost accounting systems and for specifying format and details of the grantee's estimated cost information. An early initiation of the grantee's efforts to establish an indirect cost rate approvable for the area-wide grant is also encouraged. Upon receipt of a grantee's work plan, EPA efforts will be directed primarily toward a cost analysis of the grant application work plan.

The policy proposed is that grant award officials may approve a 208 application without a cost analysis if the application appears to be technically sound and contains a grant condition that it may be adjusted downward based upon a cost analysis to be completed after the award.

Approach to Conducting the Required Reviews and Analyses

Because of the large number of complex grants which must be reviewed within a limited time, it is necessary that all possible assistance be provided to the grantee and much of the necessary review be completed prior to actual receipt of the completed work plan cost estimates. Accordingly, the handbook provides the salient aspects of the reviews desired.

The body of the handbook is oriented to emphasize, in brief form, the cost analysis process for the grant application and subsequent (or concurrent) grantee proposed subagreements.

COST ANALYSIS

The reasonableness of the costs for each application must be considered. EPA's reviews of the grantee's financial systems and subagreement plans can be completed separately. However, providing the definitions of cost elements and level of detail to the grantee prior to completion of his application will expedite the review process.

Upon receipt of application, the regional 208 coordinator will:

- . send formal acknowledgement to grantee;
- . inform grantee of any missing portions;
- . establish validity of designation, application; and
- . check overall computations.

A carbon copy of any deficiencies formally noted should be forwarded to the grantee.

PART I

Item 1 - A clearinghouse identifier establishes that the applicant has completed the designation process.

Item 2 - Applicant's 208 application number.

Item 3 - U.S. Environmental Protection Agency

Item 4 - Official name and complete address of the organizational entity undertaking responsibility for performance of the grant and management of the grant funds.

Item 5 - "Section 208 Areawide Waste Treatment Management Plan."

Item 6 - Federal Catalog Number (66-426.)

Item 7 - The total amount of the grant which should also agree with the amount shown on Part III, Section A, Line 5, Column (e). For subsequent revisions to the grant, only the amount of the increase or decrease should be shown.

Item 8 - Areawide or local may be specified.

Item 9 - As applicable.

Item 10 - Grant assistance.

Item 11 - Enter areawide population benefitting.

Item 12 - a. Congressional district in which applicant is located.

b. Congressional district(s) in areawide study area.

Item 13 - Number of months of study.

Item 14 - Enter date the project is expected to begin.

Item 15 - Enter date of application.

Item 16 - The signature of certifying authority should be verified.

EXAMPLE

Form Approved
OMB No. 158-R0110

APPLICATION FOR FEDERAL ASSISTANCE (Nonconstruction Programs) *(and for 208 Planning Grants)		1 State Clearinghouse Identifier 222208	
PART I		2 Applicant's Application No 2	
3 Federal Grantor Agency U.S. Environmental Protection Agency Organizational Unit Grants Administrative Branch Administrative Office 1735 Baltimore Street Street Address - P.O. Box Crystal City, Montana 22208 City State Zip Code		4 Applicant Name Council of Governments Department Division Main Street Street Address - P.O. Box Center City Home City County Montana 12345 State Zip Code	
5 Descriptive Name of the Project Areawide Waste Treatment Management Plan (Sec. 208 of PL 92-500)			
6 Federal Catalog No 66-426		7 Federal Funding Requested \$ 528,300	
8 Grantee Type ____ State, _____ County, _____ City, _____ Other (Specify)			
9 Type of Application or Request X New Grant, _____ Continuation, _____ Supplement, _____ Other Changes (Specify)			
10 Type of Assistance X Grant, _____ Loan, _____ Other (Specify)			
11 Population Directly Benefiting from the Project 500,000		13 Length of Project 24 months	
12 Congressional District a. 4th Congressional District b. 5th Congressional District		14 Beginning Date May 15, 1975	
15 Date of Application			
16 The applicant certifies that to the best of his knowledge and belief the data in this application are true and correct, and that he will comply with the attached assurances if he receives the grant. The applicant agrees that if a grant is awarded on the basis of the application or any revision or amendment thereof, he will comply with all applicable statutory provisions and with the applicable terms, conditions and procedures of the Environmental Protection Agency grant regulations (40 CFR Chapter I, Subchapter B) and of the grant agreement.			
TYPED NAME Mr. A. B. Clean		TITLE Executive Director	
SIGNATURE OF AUTHORIZED REPRESENTATIVE		TELEPHONE NUMBER AREA CODE 201	
		NUMBER 233-3333	
		EXT	
FOR FEDERAL USE ONLY			
EPA Application Identification Number _____ Date received in EPA _____			

PART II

Item 1 - There is no requirement for a priority system under the 208 program.

Item 2 - No education or health clearance is specifically required.

Item 3 - Clearinghouse action is required. Approval is a part of the designation process and is indicated by the states statement of certification during that process. Any statements to the exception should be noted and immediately coordinated for clarification.

Item 4 - Presently no additional approvals are required.

Item 5 - This consideration is made within the review process and council of governments plans and is often classified as a local plan.

Item 6 - if a federal installation is involved, identify and note permanent residences or employment as available.

Item 7 - If substantial land area is federal, note briefly and identify percent if available.

Item 8 - Environmental assessments are not required.

Item 9 - The impact of the study will not normally be known at time of application.

Item 10 - Prior agenda studies should be noted.

EXAMPLE

Form Approved
OMB No. 158-R0110

PART II PROJECT APPROVAL INFORMATION

Item 1.

Does this assistance request State, local, regional, or other priority rating?

Yes ☒ No

Name of Governing Body

N/A

Priority Rating

Item 2.

Does this assistance request require State, or local advisory, educational or health clearances?

Yes ☒ No

Name of Agency or Board

N/A

(Attach Documentation)

Item 3.

Does this assistance request require clearinghouse review in accordance with OMB Circular A-95?

☒ Yes ☐ No

(Attach Comments)

As Applicable

Item 4.

Does this assistance request require State, local, regional or other planning approval?

Yes ☒ No

Name of Approving Agency

N/A

Date

Item 5.

Is the proposed project covered by an approved comprehensive plan?

Yes ☒ No

Check one State ☐

Local ☒

Regional ☐

Location of Plan

Item 6.

Will the assistance requested serve a Federal installation?

☒ Yes ☐ No

Name of Federal Installation

Camp Cook

Federal Population benefiting from Project

2,000 Residents

Item 7.

Will the assistance requested be on Federal land or installation?

☒ Yes ☐ No

Name of Federal Installation

Camp Cook

Location of Federal Land

N.W. City

Percent of Project

50

Item 8.

Will the assistance requested have an impact or effect on the environment?

Yes ☒ No

See instructions for additional information to be provided.

Item 9.

Has the project for which assistance is requested caused, since January 1, 1971, or will it cause, the displacement of any individual, family, business, or farm?

Yes ☒ No

Number of

Individuals

Families

Businesses

Farms

Item 10.

Is there other related assistance on this project previous, pending, or anticipated?

Yes ☒ No

See instructions for additional information to be provided.

PART III - BUDGET INFORMATION

Section A - Budget Summary

Section A shows the total grant amount. For future revisions, this section will show those amounts.

Column A - For 208 grants, show "areawide waste treatment plan". Functions need not be shown.

Column B - The federal catalog number is shown (66-426).

Columns C&D - For new grants these are blank.

Column E - Lines 1 and 5 show the total grant.

Column F - For 208 grants approved under 92-500 during fiscal year 1975, (100% share), this column is left blank.

Column G - Lines 1 and 5 show the totals of (e) and (b).

Section B - Schedule A - Budget Categories

Object Class Categories - This first column lists the major 208 budget categories. Supporting exhibits should be identified for each category included in the grant application. The supporting exhibits should be reviewed thoroughly.

Columns (1 thru 4) - Can show functional on other subdivisions of object class categories.

Column (5) Total - Shows totals which should add to the same amount as section A, Column (g), line 5 totals.

Program Income - No Income is anticipated - N/A.

EXAMPLE

OMB No. 158-HU111

PART III-BUDGET INFORMATION						
SECTION A-BUDGET SUMMARY						
GRANT PROGRAM, FUNCTION OR ACTIVITY (a)	FEDERAL CATALOG NO (b)	ESTIMATED UNOBLIGATED FUNDS		NEW OR REVISED BUDGET		
		FEDERAL (c)	NON FEDERAL (d)	FEDERAL (e)	NON FEDERAL (f)	TOTAL (g)
1 Arcwide Waste Treatment Manage- ment Plan Section 2 208 of Water Pollu- 3 tion Control Act	66-426	\$ ----	\$ ----	\$ 528,300	\$	\$ 528,300
4						
5 TOTALS		\$	\$	\$ 528,300	\$	\$ 528,300

SECTION B-SCHEDULE A BUDGET CATEGORIES					
6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				TOTAL (5)
	(1) 5-15-75 5-14-77	(2)	(3)	(4)	
a. Personnel Exhibit A	\$ 121,940	\$	\$	\$	\$ 121,940
b. Fringe Benefits Exhibit B	24,388				24,388
c. Travel Exhibit C	6,000				6,000
d. Equipment Exhibit D	7,000				7,000
e. Supplies Exhibit E	9,000				9,000
f. Contractual Exhibit F	319,000				319,000
g. Construction	---				---
h. Other	---				---
i. Total Direct Charges	487,328				487,328
j. Indirect Charges Exhibit G	40,972				40,972
k. TOTALS	\$ 528,300	\$	\$	\$	\$ 528,300
7 Program Income	\$ N/A	\$	\$	\$	\$ N/A

EPA Form 5700-12 (5-74)

PAGE 2 OF 10

Section B - Schedule B (OMB RO 110 Page 6)
Does not apply to 208 planning grants and
can be excluded.

Section C - Nonfederal revenues is not
applicable on 100% sharing.

Section D - Forecasted Cash Needs

Lines 13 through 15 - Show the amount of the
grant cash requirements for the first year,
and quarterly forecasts for the next fiscal
year.

Section E - Funds for the Balance of the Project

Shows funds by quarter for the balance of the
24 month project.

Section F - For Indirect Cost Discussion See
Appendix No. 3.

Note: If an indirect cost proposal has not been
submitted to an appropriate federal
agency, that should accompany the
application.

EXAMPLE

Section B - Schedule B (OMB RO 110 Page 6)
Does not apply to 208 planning grants and
can be elemented.

SECTION C--NON FEDERAL RESOURCES				
(A) GRANT PROGRAM	(B) APPLICANT	(C) STATE	(D) OTHER SOURCES	(E) TOTALS
8 Not Applicable	\$	\$	\$	\$
9				
10				
11				
12. TOTALS	\$	\$	\$	\$

SECTION D--FORECASTED CASH NEEDS					
	TOTAL FOR 1st YEAR	1st QUARTER	2nd QUARTER	3rd QUARTER	4th QUARTER
13 Federal	\$ 380,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 80,000
14 Non-Federal					
15 TOTALS	\$ 380,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 80,000

SECTION E--BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(A) GRANT PROGRAM	FUTURE FUNDING PERIODS (YEARS)			
	(B) FIRST	(C) SECOND	(D) THIRD	(E) FOURTH
16	\$ 148,000	\$	\$	\$
17				
18				
19				
20 TOTALS	\$ 148,000	\$	\$	\$

SECTION F--OTHER BUDGET INFORMATION (Attach Additional Sheets If Necessary)

21. Direct Charges

22. Indirect Charges

(See Exhibit G.) An indirect cost rate of 28% of personnel costs plus fringe benefits is based on a proposal prepared in accordance with DHEW OACS-6, and submitted to EPA Cost Review Branch on April 1, 1975.

23. Remarks.

EXHIBIT A.**DIRECT LABOR COSTS**

The grantee's payroll employment records and other personnel classification information can be used to assist in evaluating the basic labor categories, positions, and hourly costs submitted.

Essential data items which should be included in grantee and subagreement proposals for direct labor include:

- . titles, names, or position classifications which can be matched to verifiable records;
- . tasks and/or supervisory functions of the grantee's 208 program to which the hours are to be applied;
- . direct labor time to be applied and the cost by hour or day; and
- . established D/L hourly costs computed by dividing annual salaries by 2,080 hours.

EXHIBIT B.**FRINGE BENEFITS**

Fringe benefits are those costs directly related to the costs of personnel employment other than the employees direct income and related taxes. The fringe benefit elements should be separately listed and should conform to the policies of the grantee and the similar organizations of the area. Data elements which should be shown are:

- . insurance paid by the grantee;
- . retirement vesting costs;
- . sick leave costs;
- . paid holiday costs;
- . vacation costs; and
- . other fringe or payroll costs normally paid by the grantee or contractor.

EXAMPLE

<u>EXHIBIT A - PERSONNEL COSTS - DIRECT LABOR</u> COUNCIL OF GOVERNMENTS			
<u>TITLE/NAME</u>	<u>EST. HRS.</u>	<u>RATE/HR.*</u>	<u>EST. COST</u>
Ex. Director, A.B. Clean	604	\$10.00	\$ 6,040
Sr. Reg. Plnr, E. Stewart	1,600	10.00	16,000
Reg. Plnr, L. Burnham	2,600	8.00	20,800
D. Wright	2,600	7.50	19,500
Water Quality Spec., R. Hayes	2,400	6.00	14,400
Systems Analyst, C. Taylor	800	6.00	4,800
R. Jefferson	500	6.00	3,000
Coordinator, L. Brown	1,200	5.50	6,600
Draftsman, B. Owens	3,000	5.00	15,000
Secretarial, R. Woods	3,950	4.00	15,800
Total Personnel Costs			<u>\$121,940</u>

1. Can you correlate labor or tasks or functions.
2. Did you verify rates to records?
3. Did you evaluate escalation projections?
4. If subagreement, can you use other cognizant Federal Government agencies as required (subagreements can be completed after grant approval.)
5. Did you determine content and basis for direct elements to present their inclusion under indirect costs.

EXAMPLE

<u>EXHIBIT B - FRINGE BENEFITS COSTS</u> COUNCIL OF GOVERNMENTS		
Retirement	4.0%	
Insurance	2.0%	
Holiday, Vacation and Sick Leave	14.0%	
	<u>20.0%</u>	
Direct Labor Proposed		\$121,940
		x 20%
Fringe Benefit Costs		<u>\$ 24,388</u>

1. Have vacations and paid holidays been estimated in accordance with grantee policy?
2. Is the factor for sick leave consistent with recent experiences?
3. Has the fringe benefit rate been calculated on a 2,080 hour direct labor basis?
4. Can you reconcile any material variances from past records and trends?

EXHIBIT C.	TRAVEL COSTS
------------	--------------

Public and private travel costs related to specific tasks and positions should be shown for grantee staff and consultants when proposals are submitted. Where detailed proposals are not prepared, or where sufficiently detailed elements are not available, past records of similar planning studies may be useful for establishing bench marks. Data elements which should be shown are:

- . number, purpose, and location of trips;
- . vehicle mileage and rates;
- . commercial travel mode, frequencies, and costs;
- . lodging days and rates; and
- . per diem days and rates.

EXHIBIT D.	EQUIPMENT COSTS
------------	-----------------

Item by item listings of all equipment used only for grant purposes is expected. The primary data elements which should be provided are:

- . quantity and equipment descriptions;
- . task application or description of functional application if not self explanatory (such as typewriter or chair); and
- . current cost by item and unit and total by line item.

EXAMPLE

<u>EXHIBIT C - TRAVEL COSTS</u> COUNCIL OF GOVERNMENTS			
<u>DESTINATION</u>	<u>NO. TRIPS</u>	<u>COST/TRIP</u>	<u>TOTAL</u>
Kansas City	20 R/T	80	\$ 1,600
Denver	20 R/T	50	1,000
Per Diem	80 days @ \$25.00		2,000
Car Rental	30 days @ \$20.00		600
Local Travel	5,700 @ 14¢		800
			\$ <u>6,000</u>

1. Do the number of trips and locations appear reasonable for the level of man/days involved and locations of 208 participants?
2. Are the estimates for air and auto travel consistent with commercial costs of travel and in accordance with government per diem rates? Per diem rates for federal contracts have recently been changed to \$35 coach travel and .15¢ per mile for private auto travel.

EXAMPLE

<u>EXHIBIT D - EQUIPMENT COSTS</u> COUNCIL OF GOVERNMENTS			
Swivel arm chairs	4@	\$ 143.50	\$ 574.00
Contemporary desks	4@	268.00	1,072.00
Desk top sorters	4@	27.00	108.00
Calendar holders	4@	3.75	15.00
Waste baskets	4@	11.00	44.00
Desk pads	4@	15.00	60.00
Files	4@	99.00	396.00
Cabinet	4@	95.00	380.00
Guest chairs	6@	48.00	288.00
Work tables	2@	287.50	575.00
Desk top calculator	1@	871.00	871.00
IBM II Selectric Typewriter	2@	1,126.00	2,252.00
Punch-bind machine	1@	365.00	365.00
Total Equipment Costs			\$ <u>7,000.00</u>

1. Based on personnel staffing and the grantee project office plans, do the equipment items requested appear reasonable?
2. Are the standard catalog items priced properly?
3. Have you conducted further investigations into any major or unexplained items?

EXHIBIT E.	SUPPLIES
------------	----------

Item by item listings of all supply items is expected. The primary data elements which should be provided are:

- . application explanations when not self explanatory (such as paper, pencil, etc.);
- . price by category of use, such as drafting, secretarial, field test, etc.; and
- . specific unit costs and quantity if a specific high cost supply item is requested.

EXHIBIT G.	INDIRECT COSTS
------------	----------------

Indirect costs are those not readily assignable to the cost objectives specifically benefitted and are incurred for a common joint purpose (FMC 74-4). Supervision costs are eligible, provided they meet requirements for establishing a predetermined rate for indirect costs.

The primary data elements should:

- . show nature and extent of services;
- . show their relevance to the program; and
- . identify all items included.

NOTE: See Appendix No. 3 for relevant discussion of indirect costs.

EXAMPLE

EXHIBIT E - SUPPLIES COSTS COUNCIL OF GOVERNMENTS

SUPPLIES

Drafting and blueprinting supplies: blueprinting paper and chemicals; prorata share of repair expense; and drafting paper, ink, pens, pencils, presstype, ziptone, airbrush supplies.	\$6,000.00
Secretarial and clerical supplies: typing paper, ribbons; prorata share of repair expense; and prorate share of xerox cost.	<u>\$3,000.00</u>
	<u>\$9,000.00</u>

1. Based on personnel staffing and the grantee project office plans, does the level of supplies appear reasonable?
2. If supplies appear high, can ratios of similar historical costs be established?
3. Have you investigated into the basis for any high cost and unexplained supply items?

EXAMPLE

EXHIBIT G - INDIRECT COSTS COUNCIL OF GOVERNMENT

Personnel Costs (Exhibit A)	\$121,940
Fringe Benefits	<u>24,388</u>
Total Salaries and Fringe Benefits	\$146,326
Indirect Cost Rate*	<u>28%</u>
Indirect Costs	<u>\$ 40,972</u>

* Based on indirect cost rate proposal submitted to the cognizant federal agency for the area and the Environmental Protection Agency, Cost Review and Policy Branch on April 1, 1974

1. Can you determine the basis for and methods used to distribute these costs?
2. If there is a substantial increase in the direct labor base projected during the period of the grant, has this been considered in establishing the new rate?
3. Does the local agency responsible for establishing areawide allocation plans agree with the indirect rate?

At the start of a program, the grantee establishes his program management staff and initiates the work program. Substantial program management planning and decision making must be accomplished. This will result in modifications to schedules and work task content. This detailing of the work plan is an iterative process and will be substantial during the early portions of the program.

In anticipation of this, the grantee should establish subagreements which provide for making adjustments to the work plan in the most effective manner. In order to accomplish this, it is preferable that contract amounts be identified to tasks, and that approvable task start dates for unique work packages be controlled by the grantee during the work program.

- . EPA approval of the grant can proceed prior to separate cost analysis of the subagreements submitted with the application.

In determining whether the grantee is approaching procurement properly, ask the questions:

- . If formal advertising is pursued?
 - a. Is the specification complete, explicit, adequate, and realistic?
 - b. Is there evidence that at least two capable sources are involved in the competition?
 - c. Are criteria utilized to insure determinations of qualified, responsive, and responsible bidders, so that selection can be made on price alone?
- . If procurement by negotiation is pursued?
 - a. Is the aggregate amount under \$10,000?
 - b. Does the public urgency prevent the delay expected to result from formal advertising?
 - c. Is there only one source for the material or service to be procured?
 - d. Is the contract for personal or professional services, or with an educational institution?
- . If a noncompetitive contract is pursued?
 - a. Have formal bids been found unacceptable?
 - b. Is there a logical rationale with adequate documentation provided to support the decision?
 - c. If the amount is over \$10,000, has the grantee been authorized to approve such procurement?

. FORMAL PROCUREMENT STATEMENT

The procurement for 20 transceivers for the Council of Governments areawide field surveillance units vehicles is contemplated to be by a formal advertised procurement resulting in a firm fixed price contract. The transceivers will be bought using the same performance specifications which previously have been used in cities A, B, and C, for other purposes and which resulted in receipt of several responsive and responsible bids.

. JUSTIFICATION FOR NEGOTIATION

Determination and Findings Authority to Negotiate

Upon the basis of the following findings and determinations, which I hereby make as the Council of Governments' Director of Procurement and agent for the Crystal City Council of Governments, the proposed procurement under an EPA grant may be negotiated without formal advertising pursuant to the applicable exception authorized by the grantor (EPA) and the procurement regulations of the Council of Governments.

Findings

The proposed research study concerning pollution resulting from numerous landfills in the Crystal City, Montana area is to be conducted by one of the educational institutions within the state. Negotiation is appropriate and this service will be handled by an individual institution.

. JUSTIFICATION FOR A NONCOMPETITIVE PROCUREMENT

Procurement of the professional services of the PDQ Analytical Co. is justified on a sole source basis to conduct a study of the current and projected basin area industrial waste water disposal capabilities and needs. PDQ has conducted such studies for the two largest cities in the states of Montana and Colorado and can move into the areawide level study with a minimum of indoctrination and orientation. The analytical techniques developed by PDQ are unique and are the result of independent development by PDQ. There is no known alternative source that can perform the study.

A cost-plus-fixed-fee contract with an estimated cost of approximately \$100,000 is contemplated based upon preliminary estimates of the labor hours, rates, and computer time required. A fixed fee of \$8,000 is anticipated.

DESCRIPTION OF PROPOSED PROCUREMENT

(For detailed description of types of contracts see Appendix No. 4.)

- . What is the type of contract proposed?
- . Is the type of contract appropriate for the particular procurement?
- . If the type contract is not FFP, as a result of formal advertising, what is the basis for making the selection?
 - The basis for selection and the procedures to be followed in the selection process are set forth in EPA-CFR 33.500 (draft.)
 - Special procedures for procurement of architectural and engineering services are included in EPA-CFR 33.515 (draft.)
 - In general, the criteria for selection can be summarized as that proposal offering the greatest advantage for the project, technical, economic, and other factors considered.

Does the contract contain the standard terms and conditions? (For listing of terms see Appendix No. 2.)

EXHIBIT F-2.JUSTIFICATION FOR TYPE OF CONTRACT SELECTEDDetermination and Findings Authorization for Type of Contract Findings

The Crystal City Council of Governments has a requirement to acquire consulting services and reports in furtherance of the existing contract with the University of Montana in the area of collecting and analyzing water quality data.

It is not possible to determine the exact amount of work and/or travel necessary to be accomplished either in man-hours, service, travel, or materials which precludes estimating a reliable cost for this effort. Only the general overall nature of the work can be described.

The Director of Purchasing for the Council of Governments hereby finds that the extent of the work to be performed and the complexity of the work and services to be performed make it impossible to determine a reliable estimate sufficiently definite to serve as a basis for a fixed price contract for this effort with Impartial, Inc.

Determination

On the basis of the findings set forth above, the Director of Purchasing hereby determines that the use of a cost-reimbursement contract is likely to be less costly and it is hereby authorized to use said cost-reimbursement contract.

The contractor's work statement establishes the basis for future program schedule cost and technical performance. Therefore, careful review of these documents by the grantee and the regional coordinator is required.

- . Is the Statement of Work expressed in clear, concise terms for tasks to be accomplished?
- . Is this information necessary to assist the contractor in understanding what is required of him?
- . Is the SOW sufficiently specific to permit the contractor to identify, and the grantee to evaluate, the manpower and resources needed to accomplish it?
- . Are the specific duties of the contractor stated in such a way that he knows what is required and to permit the grantee to determine that the requirements have been met before acceptance?
- . Are the proper reference documents shown? Are they really pertinent to the task? Fully or partially? Are they properly cited?
- . Are specifications or exhibits applicable? If so, are they properly cited? (Use the latest available revisions or issue of each document.)
- . Are specifications restrictive? Are only the necessities specified?
- . Is general information separated from direction, such that background information and suggested procedures are clearly distinguishable from contractor responsibilities?
- . Is there a date for the key things the contractor is to do and for each thing he is to deliver? If elapsed time is used, does it specify calendar days or work days?
- . Are the required products and reporting requirements descriptively defined?

CONTRACTOR WORK STATEMENT

- . To assist the COG in completing work plan Task #I, "Program Management" of the 208 work plan dated May 15, 1975. This assistance includes the following tasks:
 - a. Detailed assessment of the work program, including:
 - major milestones;
 - schedules;
 - budgets;
 - critical or constraining items; and
 - responsibility for completion.
 - b. Assess the program structure and the planning program, including:
 - project organizational alternatives, program control, financial reporting, and procurement systems; and
 - evaluate needs for reporting to local areawide organizations and the formally established water quality advisory task force.
 - c. Develop a data acquisition and analysis procedures for ensuring proper definition of data elements which can be integrated for conducting efficient evaluation of the alternatives. This task includes:
 - review existing areawide planning data and methods of translating areawide policies into longer range plans and projections;
 - review existing engineering and environmental data handling plans;
 - assess present use of technical models and land use projection models; and
 - identify areas of integration concern, alternative approaches to reduce the concerns, and complete a plan for integration and presentation of study data.
- . Four weeks from the date of contract, a written report will be prepared which will:
 - a. integrate the above tasks into program schedules and a plan for management;
 - b. prepare a program manager's document describing procedures to be utilized for the budgeting, accounting, contractor monitoring, program control, and revisions to the work tasks; and
 - c. identify the grantee project individuals responsible for each task and support function.

FIXED FEE OR PROFIT

The fixed fee of a cost-reimbursement type contract should always be expressed in contract's dollars and not in percent. The inclusion of a percent contract leads to a cost-plus-percentage of cost type of contract which is not permitted under any Federal Procurement or Grant Program. The contractor's rationale for the fee or profit proposed should be carefully examined using guidelines of past experience and generally accepted principles of good business practice. The elements of fee or profit to be considered in accordance with accepted practice include:

- . degree of risk;
- . nature of the work to be performed;
- . extent of grantee assistance;
- . extent of the contractor's investment;
- . character of the contractor's business;
- . contractor's performance;
- . extent of subcontracting; and
- . realism of cost estimates.

Further information concerning these considerations of profit or fee determination may be found in Title 41, Code of Federal Regulations; Part 1-3.808 of the Federal Procurement Regulations.

ALLOWABLE COSTS (C.F.R. 35.1062)

Allowable costs describing the interface of costs associated with Sections 201 (construction) and 208 (planning) are explained on the facing page. Note that 30.701 will be superseded by 30.705 on June 10, 1975, adding the definitions below to allowable costs.

Allowability of project costs shall be determined by the following:

- . the costs must be reasonable and within the scope of the project;
- . the cost is allocable to the extent of benefit properly attributable to the project;
- . such costs must be accorded consistent treatment through application of generally accepted accounting principles;
- . the cost must not be allocable to or included as a cost of any other federally assisted program in any accounting period (either current or prior;) and
the cost must be in conformity with any limitations, conditions, or exclusions set forth in the grant agreement or this Subchapter, including appropriate Federal cost principles of this Subpart.

§ 35.1061 Suspension and termination of grant.

In accordance with the provisions of §§ 30.902 and 30.903 of this Chapter, the Regional Administrator may suspend or terminate any grant awarded pursuant to this Subpart.

§ 35.1062 Allowable costs.

In general, eligible and ineligible costs shall be determined in accordance with § 30.701 of this Chapter and by demonstration that the type and degree of work is necessary for successful completion of the project, and that the costs are reasonable with respect to the product or service to be obtained. While costs incurred as a result of following an approved work program would generally be allowable, provided that they are not prohibited elsewhere by Federal, State or local law, regulations or rule, the costs incurred by activity related to the following shall be ineligible:

(a) All costs incurred in development of a grant application for an areawide waste treatment management planning grant.

(b) All costs incurred in sewer evaluation surveys as required under § 35.927-2.

(c) All costs incurred in detailed sewer system mapping and surveys therefor.

(d) All costs related to sewage collection systems at less than the trunk line level.

(e) All costs related to obtaining or providing information for sewer systems other than the costs of determining the following items in sufficient detail to make informed judgments on the cost effectiveness of available alternatives: tributary or service areas, routes, sizes, capacities and flows, critical control elevations required to show ability to serve tributary areas, tanks, staging, major impediments to construction, and costs of construction and operation. Data concerning lift stations shall be limited to location, size, energy requirements and capital and operating costs. (Costs of gathering and analyzing information required for economic, environmental and social evaluations shall be eligible.)

(f) All costs related to obtaining or providing treatment works other than the costs of determining the following items in sufficient detail to make informed judgments on the cost effectiveness of available alternatives: Location, site plot plan which shows adequacy of the site including provision for expansion, process flow diagram, identification of unit process, type, number and size of major units, capacities and flows, anticipated effect of treatment, staging and capital and operating costs and energy requirements. (Costs of gathering and analyzing information required for economic, environmental and social evaluations shall be eligible.)

(g) All costs of special studies for the specific benefit of individual, industrial or commercial establishments.

(h) All costs of activities which are primarily of a research nature.

§ 30.701 Allocation and allowability of costs.

Except as otherwise provided by statute, allocation and allowability of costs will be governed in the case of grants to educational institutions by the provisions of Office of Management and Budget (OMB) Circulars Nos. A-21 (Revised), and A-88, and in the case of grants to State and local governments by the provisions of OMB Circular A-87. All other grants shall be governed by the policies and principles established in the Federal Procurement Regulations, Title 41, Code of Federal Regulations, Chapter 1, Subpart 1-15.2 to the greatest practicable extent.

EXHIBIT F-4.

COST REVIEW OF THE CONTRACTOR'S WORK
STATEMENT BY TASK

The staffing plan and subagreement estimates must be related to specific work plan tasks and budgets. This is best accomplished when the staffing plans include specific tasks and hours:

Professional Classification	A	B	C	D	TOTAL HOURS
Project Director	20	10	10	10	50
Senior Analyst	10	40	80	20	150
Consultant	60	10	10	20	100
Total Hours by Task	90	60	100	50	300

These hours can be directly correlated with the contractor's overall pricing proposal, estimated direct labor hours, and dollars.

Suggested Guide for Grantee and EPA Review
Requirements of Contractor's Cost Proposals
Based on Contract Amount

Cost analysis requirements vary based on the amount of the proposed procurement.

SUBAGREEMENT COST ANALYSIS REQUIREMENTS

Contract Amount in Dollars	By Grantee	COST ANALYSIS REQUIRED	
		BY EPA	
		Acceptable Procurement Procedures	Unaccepted Procurement Procedures
Under \$10,000	X	-	-
\$10,000 to under \$50,000	X	-	-
\$50,000 to under \$100,000	X	-	X
Over \$100,000	X	X	X

CONTRACT PRICING PROPOSAL (RESEARCH AND DEVELOPMENT)				Office of Management and Budget Approval No. 29-RO184	
This form is for use when (i) submission of cost or pricing data (see FPR 1-3.807-1) is required and (ii) substitution for the Optional Form 59 is authorized by the contracting officer.				PAGE NO.	NO. OF PAGES
NAME OF OFFEROR PROGRAM MANAGEMENT COMPANY		SUPPLIES AND OR SERVICES TO BE FURNISHED CONSULTING SERVICES			
HOME OFFICE ADDRESS Crystal City, Montana					
DIVISION(S) AND LOCATION(S) WHERE WORK IS TO BE PERFORMED Crystal City		TOTAL AMOUNT OF PROPOSAL \$10,000		GOVT SOLICITATION NO.	
DETAIL DESCRIPTION OF COST ELEMENTS					
1. DIRECT MATERIAL (Itemize on Exhibit A)		EST. COST (\$)		TOTAL EST. COST	
a. PURCHASED PARTS					
b. SUBCONTRACTED ITEMS					
c. OTHER—(1) RAW MATERIAL					
(2) YOUR STANDARD COMMERCIAL ITEMS					
(3) INTERDIVISIONAL TRANSFERS (At other than cost)					
TOTAL DIRECT MATERIAL					
2. MATERIAL OVERHEAD (Rate % of base)		EST. COST (\$)			
3. DIRECT LABOR (Specify)		ESTIMATED HOURS	RATE/HOUR	EST. COST (\$)	
Project Director		50	\$25.00	\$1,250	
Senior Analyst		150	15.00	2,250	
Consultant		100	12.00	1,200	
TOTAL DIRECT LABOR					\$4,700
4. LABOR OVERHEAD (Specify Department or Cost Center)		O.H. RATE	X BASE =	EST. COST (\$)	
		100%	\$4,700	\$4,700	
TOTAL LABOR OVERHEAD					\$4,700
5. SPECIAL TESTING (Including field work at Government installations)		EST. COST (\$)			
TOTAL SPECIAL TESTING					
6. SPECIAL EQUIPMENT (If direct charge) (Itemize on Exhibit A)		EST. COST (\$)			
7. TRAVEL (If direct charge) (Give details on attached Schedule)		EST. COST (\$)			
a. TRANSPORTATION		\$ 270			
b. PER DIEM OR SUBSISTENCE		128			
TOTAL TRAVEL				\$ 398	
8. CONSULTANTS (Identify—purpose—rate)		EST. COST (\$)			
TOTAL CONSULTANTS				-	
9. OTHER DIRECT COSTS (Itemize on Exhibit A)				40	
10. TOTAL DIRECT COST AND OVERHEAD				\$9,538	
11. GENERAL AND ADMINISTRATIVE EXPENSE (Rate % of cost element Nos.)				-	
12. ROYALTIES				-	
13. TOTAL ESTIMATED COST				\$9,538	
14. FEE OR PROFIT		10%		954	
15. TOTAL ESTIMATED COST AND FEE OR PROFIT				10,492	

OPTIONAL FORM 60
October 1971
General Services Administration
FPR 1-16.806
1060-101

[illegible]

The primary requirement for the competent business management of any project is a good accounting system. There are seven major areas which should be of primary concern to the reviewer. These are defined below:

- Accounting Records

In order to have an accounting system, there must be records of all financial transactions. The system should document all receipt and disbursement transactions, including explanations and identifying codes (e.g., invoice number) on a chronological basis. It should also group them by type of account (e.g., expense, asset) and by individual account (e.g., Board of Supervisors payroll, communications expense.) Accounts should be set up in such a way as to identify each cost with a cost center and cost objective in the form of a task or subtask. A cost center may be an organizational unit, a function, or even an item of expense. Its purpose is to collect costs on a functional basis. Thus, accounts might be divided into more than one cost center (e.g., payroll expense might be distributed into several departments) and cost centers may have more than one account (e.g., the accounting department's costs might include payroll expense, supplies, and other accounts.) An important project management objective of accounting records is the derivation of information regarding actual vs. budgeted costs by project task and by performing organization.

All entries in the chronological and account groupings should be cross-referenced in some way. Furthermore, at least one of the groupings should be cross-referenced to the supporting documents.

- Supporting Documents

Every entry in the accounting records should be supported by a document of some sort. This could be a document from outside the grantee's office, as in the case of an invoice, or it could be an internally generated document, as in the case of payroll. In many cases, several documents will support a single transaction. For instance, a purchase of materials should have a purchase request, purchase order, and receiving report in addition to an invoice. It might also involve requests for proposal, contracts, advisory board resolution, progress reports, and progress payments. The key is that the files of supporting documents should contain all information necessary to explain every transaction completely, and should be cross-referenced in such a way that transactions can be traced from any document dealing with the transaction back to the initiation of that transaction and forwarded to the entry or entries concerned with that transaction.

• Traceability

Traceability, which is also referred to as an audit trail, is composed of two elements. The first is mechanical in nature. All entries in a grouping should be traceable to corresponding entries in other groupings, and to all supporting documents. This requires a good filing system based on reference codes for each entry and document. In a small system, codes may not need to be as detailed, due to the lower volume of transactions, but in almost all systems referencing based solely on a date or name will eventually prove cumbersome, inefficient, and probably inadequate. Sequential numerical codes are usually best, not only for ease of referencing, but also for internal control.

The second element of traceability is the logic behind the transaction. One should be able to determine not only what was done, but why it was done. It is here that written procedures become important. Some companies and governmental units survive without them, however, they constantly experience employee turnover, changes in circumstances, exceptions to the unwritten rules, and lose internal control. A grantee should have or should prepare complete procedures for handling grant funds.

• Allowable vs. Unallowable Costs

The preceding three areas concerned themselves with the basic set-up of an accounting system. The next two areas will deal with functions within the system. The system must be able to segregate allowable and unallowable costs if the grantee is to properly utilize his grant money. There are two basic guidelines on allowability. The first is a general guideline for all grants: Federal Management Circular (FMC) 74-4. The second guideline deals mainly with further unallowable expenses: EPA Grant Regulations, 40 CFR 35.1062. The cost analysis section of this Handbook itemizes costs which are unallowable under Section 208. Unallowable costs should be recorded in separate accounts and the supporting documents and traceability of unallowable costs should be equal to that of allowable costs.

• Direct vs. Indirect Costs

In the area of allowable costs, a further distinction must be made between direct and indirect costs. All costs should be contained in some cost center, however, some cost centers contain costs which benefit other cost centers. For example, the costs of the payroll department would benefit all other cost centers which have a payroll. This type of cost center can be referenced to as a secondary cost center. The primary cost centers are the 208 project office and supporting program functions. Ultimately, all costs will be identified with or allocated to a primary cost center. Direct costs are those which can be identified directly to a primary cost center. They may have been entered in that cost center initially, or they may have been contained in a secondary cost center whose costs could be identified to one or more primary cost centers.

Indirect costs are those which cannot be identified to a particular primary center. They must, therefore, be allocated to primary centers using a base that provides an equitable cost distribution. The key here is the ability of the accounting system to segregate all costs into cost centers, which can be classified as direct or indirect, and to then identify or allocate them to a primary cost center.

- Internal Control

Internal control is the means by which the accounting system is regulated. It serves not only to verify that the numbers are accurate, but also to assure management that proper procedures are being followed with respect to receipts and disbursements. Some of the elements of internal control are written procedures concerning how things are done and who has the responsibility for approving and for doing them, written approval at each major step of the process and an internal audit to verify that the procedures are being followed. For example, the disbursing function might require that an invoice be attached to a copy of the purchase order and receiving report and be initialed for payment by the supervisor of the department that purchased the goods before any funds can be disbursed. This procedure would then be audited at least once a year by examining invoices at random to see if the copies had been attached and the invoice initialed.

Internal controls may be implemented differently for each grantee, but each grantee should have controls which act to check the functioning of the system automatically and which insure that all major transactions, especially those concerned with cash, have checks and balances on the individuals involved. It should also be remembered that contractors hired by the grantee should be supervised, not only with respect to their work, but also with respect to their accounting for the costs of that work. This supervision should also be provided for as a part of the grantee's internal control system. For example, costs of contractors efforts by task should be recorded and should have an audit trail which the grantee could examine in detail if the contract was significant in amount.

- Accounting Reports

Accounting reports are the ultimate product of an accounting system and are often the least planned aspect of the system. This applies more to internal reports than to external reports due to the fact that the form of many external reports are prescribed. The grantee should realize that the data which must be reported to outside sources is not always the data which is required for management internally. Like internal control, reports will vary from grantee to grantee. The keys here are simplicity, comparability, and thought. Simplicity refers to the elimination of unneeded numbers, the rounding off of unneeded digits, and the clarification of format. Comparability refers to consistency between current and past reports or among the reports of different divisions and to the existence of data on the current report which enables ready comparisons with prior years (e.g., percent change from last year.)

The constant question must be: has the grantee given sufficient thought to his plans for the accounting system? It should be based on his analysis of his needs and resources, rather than on a standard system copied from a book. The thing to look for is an understanding of those needs and an analysis of how the accounting system will fulfill them.

- Introduction

The examination of a grantee's procurement system and procedures is necessary to ensure good business practices and to verify compliance with federal statutes and regulations and EPA policy set forth in Federal Management Circular 74-7, Attachment 0 (FMC 74-7, Att. 0) attached, 40 CFR 30, 33 and 35.1050, and EPA Program Guidance Memorandum AM-6.

A subagreement is a written agreement between a grantee and third party for the furnishing of services or supplies necessary to complete the project for which a grant was awarded. Since EPA does not permit subgrants, subagreements include only procurement which result in contracts purchase orders, and interagency agreements. (CFR 30, 1000-19 with interagency agreements added per CFR 35.1054-2).

- Review and Approval Requirements

Audit of a grantee's procurement procedures is not required prior to the approval of a grant application. EPA Section 208 Grant Program Guidance Memorandum AM-6 establishes requirement for grantee implementation of adequate procurement procedures for audit by EPA.

One objective of auditing and determining the adequacy of a grantee's procurement system is to permit EPA to eventually delegate approvals of certain levels of procurements to the grantee.

EPA draft of 40 CFR 33.22 requires prior written approval of the EPA project officer for all subagreements in excess of \$100,000 and each amendment to a subagreement in excess of \$100,000.

The following checklist items and discussion points are oriented to the corresponding standards set forth in FMC 74-7 Att. 0 attached and provides a basis for reviewing the adequacy of a grantee's procurement system and procedures. (The review of individual procurements is addressed in the main body of this handbook.)

- Grantee Contractual Responsibility (FMC 74-7, Att. 0, para. 2)

Are there any contractual provisions which the grantee specifies for incorporation in contracts which give a contractor under a grant recourse to EPA?

- If so, the procurement system does not meet the standard and such contractual provisions should be deleted before system approval.

- Procurement Approval Authority

Does the grantee have documented designated authorities for approving procurements under EPA grants?

If the grantee has delegated procurement approval authorities, are such authorities documented and clearly traceable upward to a responsible grantee official?

If approval authority is delegated, do the delegations include consideration of:

- responsibility, i.e., to ensure a maximum of competitive procurements;
- dollar levels authorized for approval;
- necessity of executive level approval of major procurements; and
- non-competitive procurements?

- Authority to Contract

Is there a designated focal point in the grantee's organization with authority to contract, i.e., a purchasing agent, buyer, contracting official, purchasing official, or equivalent titled person?

Does the responsible person report to the executive level to ensure good business practices are exercised in management decisions regarding procurements?

- Grantee's Procurement Regulations (FMC 74-7, Att. 0, para. 3)

Have procurement regulations been adopted by the grantee which have received prior approval by a Federal department or agency?

- If so, which department or agency and when?

If the grantee's procurement procedures have not had prior approval, the review by the EPA regional office should address the specifics of this checklist and in general answer the following questions:

Do the grantee's procurement standards and procedures meet the required minimums established by the requirements contained in this section which reflect the requirements of current Federal law and executive orders.

- If not, what are the deficient areas?
- What actions are being taken or can be taken to meet the minimum requirements?
- Who has the action responsibility and what is the schedule for completing necessary actions?

Procurement System and Procedures, Continued.

- Standards of Conduct (FMC 74-7, Att. 0, para. 3a)

Has the grantee established and promulgated a code or standards of conduct which is directive upon all COG personnel who may be involved in any aspect of contracting and expending Federal grant funds?

- Are penalties for violation included in the code or standard?

Does the code or standard guard against any action which might result in, or create the appearance of:

- Using an official position for private gain?
- Giving preferential treatment to any person or contractor?
- Losing complete independence or impartiality?
- Making an official decision outside official channels?
- Affecting adversely the confidence of the public in the integrity of the government or the program?

- Competition (FMC 74-7, Att. 0, para. 3b)

There are three basic methods of procurement: public advertising, competitive negotiation, and non-competitive negotiation. Public advertising is preferred, negotiated procurements are permitted under certain circumstances. A cost and price analysis becomes an essential element to be considered in negotiated procurements. Non-competitive procurements, due to their very nature of being void of competition, are to be avoided.

Does the grantee's procurement standards and procedures give recognition to the requirement for competition?

Are criteria established for the use of formal advertising?, i.e.,

- complete sufficient explicit specifications (or purchase description(s));
- stable requirements not likely to change;

- two or more identified capable sources willing to bid;
- time requirements necessary to carry out necessary procedures?

Are circumstances permitting negotiated procurements well defined in the grantee's procedures?

- What are the justification requirements? Are they consistent with the exceptions referenced in FMC 74-7?
- Are the approval channels well defined?

Are cost and price analyses of negotiated procurement required?

- Are the procedures adequate?

Does the grantee's procedures require all negotiated procurements over \$50,000 to be forwarded to an EPA regional office for cost analysis per section 208 EPA Program Guidance Memorandum AM-6?

Are procedures and criteria established for non-competitive procurements?

- Is the approval authority at the grantee's executive level? For what dollar level?
- Are procedures established to acquire EPA approval? For what dollar level with EPA approved procurement procedures? Without EPA approved procedures?

How does the grantee's procedures and/or contract provisions guard against organizational conflicts of interest or non-competitive practices among contractors? Such standard clauses included in the Federal Procurement Regulations as "Covenant Against Contingent Fees", "Officials not to Benefit", and "Gratuities" are most appropriate.

- Approval of Procurement Requirements (FMC 74-7, Att. 0, para. 3c(1))

When considering the necessity for a procurement, grantee officials should validate the requirement with respect to need and extent, ensure that the requirement is not duplicative, be certain that the task cannot be accomplished by personnel within the grantee's organization, and be confident that the requirement cannot be fulfilled using other available sources.

Procurement System and Procedures, Continued.

There are many situations in which the government's equipment requirements may be more economically filled by lease than by purchase. This is particularly true in the case of certain expensive commercial equipments. The decision to lease rather than purchase must be made on a case-by-case basis.

Does the grantee have documented procedures and criteria for establishing procurement requirements?

Are there clear channels of authority for review and approval of procurement requirements?

Do the documented procedures and criteria enhance or restrict competitive procurement practices?

Are lease vs. buy evaluation criteria established?

Are lease vs. buy analyses performed? Are such analyses reviewed and determination made at the grantee executive level?

- Statements of Requirements (FMC 74-7, Att. 0, Para. 3c(2))

The statement of technical requirements is normally composed of the description, or specification, of the requirement (tasks, materials, services) which scopes the contractor's effort and sets forth in responsibilities and authorities, a delivery schedule and a description of the data to be delivered by the contractor.

Do the procurement procedures or other grantee guidance documentation include instructions for the technical and managerial personnel in the preparation of technical requirements for procurements?

- Small and Minority-Owned Businesses (FMC 74-7, Att. 0, Para. 3c(3))

Positive efforts may include small business and minority set-asides, and should include, where feasible, the breakout of work that could be readily handled by small business or minority firms.

Are there procedures established for aggressively pursuing the utilization of small and minority-owned businesses?

- Choice of Contract Type (FMC 74-7, Att. 0, Para. 3c(4))

Procurement procedures should include guidelines for the selection of the type of contract most appropriate for the requirement and consideration for good business practices. For example, cost reimbursement contracts are low risk for the contractor and therefore should bear a lower fee or profit. In contrast, fixed price contracts shift risks to the contractor and therefore should be accompanied by higher profits.

Do the grantee's procurement procedures require an analysis of relevant factors such as those which follow in the determination of the most appropriate contract type? Typical factors for consideration include:

- the type and complexity of the item or service being contracted for;
- the urgency of the requirement;
- the degree of competition present;
- the difficulty of estimating performance costs because of the absence of definitive specifications, the lack of experience or the instability of requirements;
- the relationship of risk and profit; and
- the extent and amount of subcontracting anticipated.

One form of cost contract is against EPA policy. This is the cost-plus-a-percentage-of-cost arrangement. Under it the contractor receives payment for the costs of performance, plus a specified percentage of such actual costs as a fee. Its undesirable feature is the automatic increase in the fee as costs increase under the contract. The cost-plus-fixed-fee arrangement differs in that a fixed dollar value of fee is established with consideration of the estimated cost of performance prior to the actual performance.

Procurement System and Procedures, Continued.

Do the procurement standards and procedures preclude the use of cost-plus-a-percentage-of-cost contracts?

- Publically Advertised Procurement (FMC 74-7, App. 0, Para. 3c(5) revised to raise \$2,500 to \$10,000)

The intent of publically advertised procurements is to minimize the application of personal subjective judgements to the procurement award process and thus avoid any doubts as to the integrity of the grantee in the expenditure of public funds.

The prerequisites for public advertising are quite specific and critical to successful use of the method. The prerequisites include:

- adequate specifications;
- adequate competition;
- adequate time for the preparation of complete specifications and solicitation documents;
- award on the basis of low price;
- responsible contractor;
- responsive contractor; and
- firm fixed price contract.

Do the procurement standards give preference to formal advertised procurements?

Do the procurement procedures address the prerequisites for use of formal advertising and specify the steps through this highly disciplined process?

Are methods included for determining a contractor's responsibility?

How is adequate competition assured? Are prospective bidder lists maintained or available for the grantee's use?

- Circumstances Permitting Negotiations (FMC 74-7, Att. 0, Para. 3c(6) with dollar levels revised)

Justification for use of the competitive negotiated procurement method in lieu of the public advertised method should be documented, reviewed, and approved by an appropriate grantee official and retained in the procurement file. When proposed procurements requiring EPA approval are submitted, the justification for using a negotiated procurement must be submitted. Similarly, if non-competitive procurements

are proposed, approval of the documented justification by a grantee official is required prior to the submittal to EPA for approval.

Do the grantee's procurement procedures recognize the limitations permitted for the use of negotiated procurements?

Does the grantee have procedures established which require justifications to be prepared and approved before using negotiated procurements and procuring on a non-competitive basis?

Do the grantee's procedures specify the levels of negotiated and non-competitive procurements which require EPA approval?

Do the grantee's procedures require cost/price analysis to be performed on all negotiated procurements?

Do the grantee's procedures emphasize the necessity to obtain competition in negotiated procurements to the maximum extent practicable?

Does the grantee have procedures established for conducting cost/price analysis?

Are the grantee's approval authorities clearly designated?

Are the responsibilities clearly assigned for preparing justifications and for conducting cost/price analysis?

Are the approved justification retained in the contract files?

- Responsible Contractor Determination (FMC 74-7, Att. 0, Para. 3c(7))

A bidder is considered responsible when the grantee has established that he has:

- the technical capability to perform;
- financial capability to obtain necessary resources;
- manpower required to perform;
- a record of having met schedules, not exceeding estimated costs and satisfactory technical performance;

Procurement System and Procedures, Continued.

- a satisfactory record of integrity and business ethics; and
- be otherwise qualified and eligible to receive award under applicable public policy laws and regulations such as Equal Opportunity, etc.

Does the grantee have adequate procedures for determining whether or not a contractor is responsible?

- Are pre-award surveys conducted?
- Are the normal sources of necessary information listed?

Do the grantee's procedures include the requirement for acquiring subcontracting authorization from EPA prior to authorizing a contractor to let subcontracts over \$10,000?

- Contract Records (FMC 74-7, Att. 0, Para. 3c(8) with dollar level revised.)

Does the grantee maintain records for each procurement which includes as a minimum:

- the contract;
- contractor selection;
- justification for use of negotiation in lieu of formal advertising;
- justification for non-competitive procurement;
- results of bidder's responsibility determination;
- cost/price analysis upon which negotiations were based (or a record of all bids if formal advertising were used); and
- a memorandum of negotiation regarding the cost or price negotiated;

- Contract Administration (FMC 74-7, Att. 0, Para. 3c(9))

Is there a person within the grantee's organization assigned the responsibility for assuring conformance with the terms, conditions, and specifications of the contract (i.e., for contract administration)?

- Are there documented policies and procedures?
- Do they cover the total requirements of the contract?
- Are their practices consistent with their policies and procedures?

Is there a person with grantee's organization assigned the responsibility for expediting and timely follow-up of all deliveries (i.e., for project monitoring)?

- Are there documented policies and procedures?
- Are their practices consistent with their policies and procedures?

Is the contractor's progress examined and evaluated periodically? Are there periodic meetings with the contractor to review status and problems?

Is the contractor's planned progress and planned expenditures comparatively evaluated with actual progress and actual expenditures?

Are inspections, acceptances, and approvals of contractor deliveries performed in accord with established procedures against contractual requirements?

Is a system established for review of contractor's requests for payments in comparison with progress prior to payment? Are contractors paid promptly by the grantee?

Are the roles of the persons authorized to commit the grantee and those responsible for monitoring a contractor's technical performance clearly delineated? Are the practices consistent with such delineations?

Are the procedures established to cover such contingencies as:

- Delivery delinquencies?
- Lack of progress?
- Termination for default?
- Termination for convenience?
- Disputes?

Procurement System and Procedures, Continued.

Are there provisions to ensure that all work under the contract has been completed and deliveries made?

Are there procedures to ensure that work is adequately inspected and accepted by the grantee prior to final payment?

Are there procedures to ensure that all costs incurred are allowable prior to final payment? Are audit procedures established and exercised?

Are there procedural requirements that establish periods for contract file retentions?

Are there procedures established for controlling changes to subagreements by the grantee?

Are there provisions which prevent contractors from making changes without prior approval of the grantee?

- Subagreement Provisions (Applicable extracts from FMC 74-7, Att. 0, Para. 4)

Does the grantee's procurement procedures require the following typically titled provisions to be incorporated into subagreements (reference FRP standard contract provision):

- Disputes, appeals, and remedies?
- Termination for default?
- Termination for convenience?
- Patents, copyrights and rights in data?
- Access to contractors' records by EPA, the Comptroller General of the United States, or any of their duly authorized representatives?
- Clean Air Act?
- Federal Water Pollution Control Act?
- Equal Opportunity Employment?

Are such provisions included in current subagreements?

• Introduction

The grant application usually involves a request by the grantee for reimbursement of both direct and indirect costs. Indirect costs are those costs which are not readily identifiable with the program itself, but nevertheless are incurred by the governmental unit for the joint benefit of the various programs and activities carried out by the organization. An indirect cost rate is merely a means by which the governmental unit determines the relative proportion of indirect expenses which each program activity should bear. In order to develop an indirect cost rate, it is necessary to identify the total indirect cost pool, exclusive of unallowable costs and an appropriate cost allocation base.

• Cost Allocation Plan

The indirect cost pool should include not only the departmental indirect costs, but also a proportionate share of central service support costs. In order to recover central service support costs incurred outside of the department, a consolidated government-wide cost allocation plan must be prepared. The cost allocation plan simply identifies the central service support activities and allocates their costs to other benefitting departments and agencies. An initial step in the process, therefore, is to identify the central service support activities. These commonly include personnel, purchasing, data processing, finance, and building and facilities maintenance. The next step is to determine the nature and extent of services provided by central service support activities to other departments and agencies. Once this determination is made, the central service activity expenditures must be allocated to the benefitting departments, divisions, or offices. Suitable allocation bases must be selected for this allocation process. The allocation base for each central service support activity should be related to the type and nature of service provided and will most likely differ for each of the central service departments. For example, the cost of the personnel department might be allocated on the basis of total numbers of employees in each benefitting department. On the other hand, facilities maintenance costs might appropriately be allocated on the basis of square footage occupied by each benefitting department.

The next step in the process is to analyze the operating department expenditures. Unallowable costs must be excluded and the remaining costs must be classified as either direct or indirect costs. Direct costs are generally defined as those that can be identified specifically with a particular cost objective such as a grant, contract, or other program activity in contrast to indirect costs that are incurred for common or joint purposes that benefit more than one cost objective, and are not readily assignable to a specific direct cost activity.

Indirect Cost Rates, Contined.

• Indirect Cost Proposal

The departmental indirect costs plus the central service support activity costs allocated to the department via the cost allocation plan constitute the indirect cost pool. Next, an appropriate distribution base must be selected in order to arrive at an indirect cost rate. Bases which are commonly used include:

- a. total direct salaries and wages;
- b. total direct salaries and wages,
plus applicable fringe benefits; and
- c. total direct costs exclusive of
capital expenditures.

The indirect cost rate is the ratio between the total indirect expense pool and the direct cost base and is expressed as a percentage. This latter process, namely the development of the departmental indirect cost rate, is documented in the form of an indirect cost proposal.

• Section 208 Grant Application Requirements

EPA requires cost allocation plans as well as indirect cost proposals to be submitted for approval for areawide planning grants under the Section 208 program. EPA has a responsibility to formally notify the grant applicants of the submittal and approval requirement of EPA. Such notification is required since EPA's procedure differs from that normally used where the cost allocation plans are retained by the local governments for subsequent examination by federal auditors. Ideally, the cost allocation plan and the cost proposed plan should be submitted prior to the submittal of the grant application, for without an approved indirect cost rate EPA disallows all indirect costs, unless the indirect cost proposal has been submitted to EPA. In that case, the rate can be negotiated and is not automatically disallowed. The actions required by the grantee and EPA are summarized in the following chart.

INDIRECT COST REQUIREMENTS

SUBJECT	ACTIONS REQUIRED			
	BY GRANTEE	WHEN	BY EPA	WHEN
Cost Allocation Plan	. Prepare and submit proposal annually.	. Desired: Prior to grant application. . Latest: With application.	. Ensure current plan is approved by cognizant federal agency. . If EPA is cognizant federal agency, evaluate, negotiate, and approve plan.	. Desired: Prior to grant approval. . Prior to allowing any indirect costs for reimbursement.*
Indirect Cost Proposal	. Prepare and submit prospective indirect cost rate proposal annually.	. Desired: Prior to grant application. . Latest: With application.	. Evaluate, negotiate, and approve a prospective indirect cost rate if not already approved by another federal agency.	. Desired: Prior to grant application. . Prior to allowing any indirect costs for reimbursement.*
Audit of Incurred Indirect Costs (Subsequent year's indirect cost proposal)	. Prepare and submit proposal. . Make records available for audit.	. At year end and when grantee has major organizational changes which affect approved indirect cost rate	. Audit to determine allowability and appropriateness of allocations of indirect costs. . Establish actual indirect cost rate for payment.	. Prior to final payment to grantee of indirect costs.

* Note: A grantee must gain early approval of his projected indirect cost rate, since retroactive recovery of indirect costs will not be allowed by EPA (EPA Program Guidance Memo AM-6.)

• Supporting Information Requirements

Cost allocation plans must be supported by a local government organizational chart that shows both the local government-wide organizations rendering service and all local government departments receiving service. Only changes to organizational structure need be made available in subsequent years. In addition, the plan must be certified by the local government Budget Officer or other authorized local government officials. The plan itself should, at a minimum, contain (1) the nature of the service provided and the relevance to government projects; (2) the items of expense to be included in the cost; (3) the methods to be used in distributing costs; and (4) identification of both the local government agencies rendering the services and receiving the services.

Indirect Cost Rates, Continued.

CERTIFICATION BY LOCAL GOVERNMENT BUDGET OFFICER OR OTHER
RESPONSIBLE LOCAL GOVERNMENT OFFICIAL-LOCAL
GOVERNMENT-WIDE COST ALLOCATION

I hereby certify as the responsible official of _____
(Name of Local Government)

that the information contained in this local government-wide allocation plan

for the fiscal year ended _____ is correct and was prepared in
(Month-Day-Year)

accordance with the policies and procedures contained in FMC 74-4. I further
certify that a consistent approach has been followed in treating a given type
of cost as direct or indirect and that in no case have costs charged as direct
costs of federally-supported programs been included in the indirect costs re-
flected in the plan.

Signature

Title

Date

The submittal of each indirect cost (rate) proposal must be supported
by:

1. A certification by a responsible local government official that the proposal has been prepared in accordance with applicable regulations. The sample format should be used for this purpose.
2. A copy of financial statements prepared by either certified public accountants, licensed public accountants, or state or local government auditors. If these are not available, proposals should be supported by any financial documents generated either by the local government agency or higher tier local government agency which can be used to substantiate the authenticity of the amounts proposed
3. A listing by Federal agency of current and forecast grants and contracts, the amount of expenditures incurred and forecast to be incurred on each for the periods involved and the overhead limitations (if any) applicable to each.

GRANTEE CERTIFICATION BY OFFICIAL
INDIRECT COST PROPOSAL

I hereby certify as the responsible official of _____
(name of grantee, dept. or agency)

that the information contained in this indirect cost proposal for the fiscal year ended _____ is correct and was prepared in accordance with the
(Month-day-year)

policies and procedures contained in FMC 74-4. I further certify that procedures were utilized (a) to prevent costs from being allocated to federal programs as indirect costs that have already been treated as direct program costs, (b) to assure that consistent treatment was accorded similar costs, for all programs in the Department/Agency, regardless of source of funds, (c) to assure that costs have not been treated as indirect costs of federal programs inconsistent with statutory restrictions governing those programs; and (d) that the forecast indirect cost rate for the fiscal year ending _____
(Month-day-year)

includes consideration of the Section 208 grant and other existing and anticipated grants.

Signature

Title

Date

• Approvals by Other Federal Agencies

EPA regional personnel who have questions regarding the approval status of cost allocation plans or indirect cost proposals for establishing prospective indirect cost rates should refer their questions to the grantee's cognizant federal agency. Whenever the cognizant agency gives prior approval to a government-wide allocation plan or indirect cost proposal, such approval is formalized; distributed to all interested federal agencies and is applicable to all federal grants and contracts.

• Procedures for Federal Agencies When Making Awards

A locality may charge federal programs in accordance with their approved cost allocation plans and indirect cost rates. These charges shall be accepted by the federal agencies making the awards.

Indirect Cost Rates, Continued.

• Audits and Negotiation of Cost Allocation Plans

Responsibility for the audit and negotiation of cost allocation plans of individual localities has been assigned to specific federal agencies by the Office of Management and Budget. The cognizant federal agency will be responsible for the audit and acceptance of the cost allocation plans required under FMC 74-4 and may request the submission of plans for prior approval, as EPA has done, where it deems such a submission to be in the best interests of the parties involved. A current list of agency assignments is maintained by the Department of Health, Education, and Welfare.

Once an audit has been conducted by a federal agency, it is expected that the federal auditor will be able to reach an agreement with the local government agency on any audit findings. The need for involvement of Federal personnel other than auditors, is contemplated only in those instances in which there is a disagreement which cannot be resolved between the auditor and the locality.

In the event that a local government disagrees with the auditor's findings, it is the responsibility of the cognizant federal agency to act as the negotiating agency for the Federal Government, and to resolve such differences in coordination with the other federal agencies.

• Audits and Negotiations of Indirect Cost Proposals

At the grantee level government, the federal agency with the predominant interest in the work of the grantee will be responsible for necessary negotiation, approval, and audit of the indirect cost proposal.

• Additional Information for Reviews

EPA regional personnel needing additional information concerning analysis, evaluation, and negotiation of acceptable indirect cost rates should contact the EPA Audit Office in Washington, D. C.

• Detailed Instructions for Preparation of Cost Allocation Plans and Indirect Cost Proposals

The Department of Health, Education, and Welfare (DHEW) in consultation with the other federal agencies concerned is responsible for developing and issuing the instructions for use by state and local government grantees in preparation of cost allocation plans. This responsibility applies to both central support services at the state and local government level and indirect cost proposals of individual grantee departments. DHEW has published a guide for local government agencies entitled "Establishing Cost Allocation Plans and Indirect Cost Proposals for Grants and Contracts with the Federal Government."

Local governments needing additional information regarding the preparation of local government-wide cost allocation plans or indirect cost proposals should contact either their cognizant federal agency or:

Division of Grants Administration Policy
Office of the Assistant Secretary,
Comptroller, Department of Health,
Education and Welfare
330 Independence Avenue, S. W.
Washington, D. C. 20201

CHECK LIST

Cost Allocation Checklist

- . Has the grant applicant submitted his CAP as required by EPA?
- . Has his CAP been accepted by a federal agency?
 - If so, which one?
- . What is the allocation to the grantee's department or organizational entity?
 - Is the amount reasonable for the benefits derived?
- . Does the CAP project allocations over the future fiscal year.
 - If not, have the allocations in the past been stable?
- . If the CAP has not been accepted, has the cognizant agency been requested to audit and accept the CAP?
 - Which agency?

Indirect Cost Checklist

- . Has the grant applicant submitted his ICP to EPA?
- . Does the grant applicant have an approved indirect cost rate?
 - If so, what is the rate?
 - Which federal agency approved it?
 - When was it approved?
 - Does the approval include the projection of a predetermined rate (i.e., for the forthcoming FY?)
- . If predetermined rate has not been approved, is EPA cognizant federal agency for giving approval?
 - If not, which agency has been requested by EPA to approve a rate?
 - Have past rates been stable?
 - Does the grantee's ICP include the proposed grant in the base over which indirect costs will be distributed in establishing the indirect cost rate?
 - Have the unallowable costs excluded in establishing prior indirect cost rates been excluded in forecasts of indirect costs?
 - Have other federal agencies involved with the grantee been notified of EPA's approval of the grantee's indirect cost rate?

In establishing agreements with engineering and consulting firms, there are two basic ways of obtaining the services, through competitive bid or negotiated procurement. With a formalized competitive bid, the grantee solicits firms to bid on the services required with consideration given first to technical competence and second to cost. The award is normally made to the technically qualified firm with the lowest cost. Generally, competitive procurement of this type results in a firm fixed price agreement that does not change unless the scope of work changes. As was mentioned earlier, this is not normally the way the relationship between the grantee and the firm is established. Therefore, the reasonableness of cost that can be presumed from such competition is not present.

The method of obtaining engineering and consulting services under grants is generally through a negotiated type of procurement. While this type of procurement may also involve screening a number of firms for technical competence, more often the firm has been preselected and thus, the important point is the reasonableness and method of reimbursement. Under a negotiated procurement, there are a number of types of reimbursement that can be affected. They include firm fixed price (FFP), cost-plus-a-fixed-fee (CPFF), and time and materials (or labor hour) contracts. The Federal Procurement Regulations (FPR), Section 1-3.4 discusses in detail these forms of contracting, when they are considered applicable, and their limitations. The following summary of each is provided.

FIRM FIXED PRICE

The FFP or lump sum contract generally provides for a firm price agreed to in advance for the services to be procured. It is not subject to adjustment by reason of the contract cost experience and, when appropriately applied, places maximum risk upon the contractor. Because the contractor assumes full responsibility for profit or loss, he has maximum incentive for effective cost control and contract performance. The FFP contract is suitable for use in procurement when definite performance requirements are available and whenever fair and reasonable prices can be established at the outset.

The lump sum form of reimbursement that is used by many engineering firms for the design phase of a construction grant generally falls in the category of an FFP contract. The engineer's reimbursement is essentially predetermined based on percentages from the American Society of Civil Engineers (ASCE) curve (or variation thereof) applied to grant construction costs. While the FFP form of contracting for engineering services offers many advantages, it has one significant disadvantage from the government's standpoint. It requires that a good estimate be made of the expected cost of the services. Normally, this would be an independent estimate prepared by the grantee or government technical personnel. It is not satisfactory to conclude that the use of the percentages from the ASCE curve (or variations thereof) produce a reasonable price.

The use of the FFP form of contracting for services under grants would generally be effective if procedures and controls as recently prescribed by EPA for the direct procurement of engineering services could be instituted at the grantee or EPA (state agency) level. These procedures are detailed in EPA Order 1970.2 dated August 13, 1973. In the event the grantee's records do not document the necessary determination of reasonableness for the lump sum contract, subsequent audit will have to be made of the firm's records.

COST-PLUS-A-FIXED-FEE

The CPFF contract is a cost reimbursement type of contract which provides for the payment of a fixed fee to the contractor. The fixed fee once negotiated does not vary with actual cost. Because the fixed fee does not vary in relation to cost, the CPFF contract provides the contractor only minimum incentive for effective management control of costs. The CPFF contract provides that the contractor receive its actual allowable labor, other direct costs, and indirect costs, plus a fixed fee profit. The CPFF contract is written to provide for a total estimated cost (contract ceiling.) Prior to award, a negotiation process which includes either price or cost analysis must take place between the firm and the grantee to arrive at a reasonable estimate of cost plus a negotiated profit. The grantee is required to document this negotiation. In addition, the firm's costs are subject to an audit during or after completion of performance to determine that their claims included only allowable costs in accordance with applicable regulations.

TIME AND MATERIALS (LABOR HOUR)

This type contract provides for the procurement of services on the basis of direct labor hours at specified fixed hourly rates (which include direct labor, overhead and profit.) This type of contract does not afford the contractor with any positive incentive to control cost. It is essential that this type of contract be used only where provision is made for adequate controls, including appropriate surveillance during performance. Because this type of contract does not encourage effective cost control and requires almost constant surveillance, it should be used only after determination that no other type of contract will suitably serve. This type of contract shall establish a ceiling price which the contractor exceeds at his own risk.

The labor hour contract has been used frequently by engineering and consulting firms in the past. While it is an acceptable form of contracting, the following controls that have not existed in the past are essential. The grantee is responsible for obtaining cost data from the consulting engineer for evaluation and negotiation in establishing hourly rates. This must be documented to show that a reasonableness determination was made. In addition, the grantee is responsible for maintaining (and documenting) surveillance over the hours charged by the contractor. The contract must set a reasonable ceiling on the total cost of these services. Final audit requires a determination that the grantee fulfilled the above responsibilities. Otherwise, audit of the firm's records to determine reasonableness is necessary.

Types of contracts, continued.

In summary, any of the above forms of contracting for services can be acceptable. However, the grantee is responsible for demonstrating that:

- . the method selected is appropriate for the services to be performed;
- . the necessary evaluation of the reasonableness of the proposed costs was made; and
- . controls required were maintained during performance.

In the event the grantee does not fulfill these responsibilities and subsequent EPA review (technical or audit) reveals unallowable costs or excessive profits as a result, the amounts will not be reimburseable to the grantee under the grant.

CONTRACT-TYPE CHARACTERISTICS

AREAS OF CONSIDERATION	COST AND COST-PLUS-FIXED-FEE	FIRM FIXED-PRICE
Cost & fee/profit pattern	<ul style="list-style-type: none"> Cost is estimated Fee is fixed in CPFF No fee in cost 	<ul style="list-style-type: none"> Cost is not specified Profit is not specified A total price is established
Effect of overrun or underrun	<ul style="list-style-type: none"> Fee \$ unchanged Government assumes risks of overrun and benefits of underrun 	<ul style="list-style-type: none"> All costs over price are borne by contractor All costs under price are profit
Basis of payment	<ul style="list-style-type: none"> Cost reimbursed as incurred, plus pro-rated fee 	<ul style="list-style-type: none"> payments of billing price upon delivery and acceptance of product Periodic progress payment up to 80% incurred
Government preference	<ul style="list-style-type: none"> Least preferred 	<ul style="list-style-type: none"> Most preferred
Contractor's potential risks	<ul style="list-style-type: none"> No fee risk Best effort only is required to meet cost, schedule, and technical performance objectives specified Government maintains a high level of involvement in contractor's operations Contractor normally does not contest extra - contractual direction, requests and interpretations 	<ul style="list-style-type: none"> Profit can go to zero and below Specified schedules and technical performance requirements <u>must</u> be met Contractor must deny extra contractual effort Changes to the contract and claims must be managed astutely A proven cost, schedule, planning, and control system is essential Can expect an increase in disputes with government

PROCUREMENT STANDARDS

1. This attachment provides standards for use by the State and local governments in establishing procedures for the procurement of supplies, equipment, construction, and other services with Federal grant funds. These standards are furnished to insure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and Executive orders. No additional requirements shall be imposed by the Federal agencies upon the grantees unless specifically required by Federal law or Executive orders.

2. The standards contained in this attachment do not relieve the grantee of the contractual responsibilities arising under its contracts. The grantee is the responsible authority, without recourse to the grantor agency regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in support of a grant. This includes but is not limited to: disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

3. Grantees may use their own procurement regulations which reflect applicable State and local law, rules and regulations provided that procurements made with Federal grant funds adhere to the standards set forth as follows:

a. The grantee shall maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending Federal grant funds. Grantee's officers, employees or agents, shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible by State or local law, rules or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the grantee officers, employees, or agents, or by contractors or their agents.

September 13, 1974

b. All procurement transactions regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The grantee should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

c. The grantee shall establish procurement procedures which provide for, as a minimum, the following procedural requirements:

(1) Proposed procurement actions shall be reviewed by grantee officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(2) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by offerors should be clearly specified.

(3) Positive efforts shall be made by the grantees to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing Federal grant funds.

(4) The type of procuring instruments used (i.e., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.), shall be appropriate for the particular procurement and for promoting the best interest of the grant program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(5) Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to paragraph (6) below is necessary to accomplish sound procurement. However, procurements of \$10,000 or less need not be so advertised unless otherwise required by State or local law or regulations. Where such advertised bids are obtained the awards shall be made to the responsible bidder whose bid is responsive to the invitation and

is most advantageous to the grantee, price and other factors considered. (Factors such as discounts, transportation costs, taxes may be considered in determining the lowest bid.) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the grantee. Any or all bids may be rejected when it is in the grantee's interest to do so, and such rejections are in accordance with applicable State and local law, rules, and regulations.

(6) Procurements may be negotiated if it is impracticable and unfeasible to use formal advertising. Generally, procurements may be negotiated by the grantee if:

(a) The public exigency will not permit the delay incident to advertising;

(b) The material or service to be procured is available from only one person or firm; (All contemplated sole source procurements where the aggregate expenditure is expected to exceed \$5,000 shall be referred to the grantor agency for prior approval.)

(c) The aggregate amount involved does not exceed \$10,000;

(d) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institutions;

(e) The material or services are to be procured and used outside the limits of the United States and its possessions;

(f) No acceptable bids have been received after formal advertising;

(g) The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture;

(h) Otherwise authorized by law, rules, or regulations.

September 13, 1974

Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

(7) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources.

(8) Procurement records or files for purchases in amounts in excess of \$10,000 shall provide at least the following pertinent information: justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated.

(9) A system for contract administration shall be maintained to assure contractor conformance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely followup of all purchases.

4. The grantee shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts and subgrants:

a. Contracts shall contain such contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contracts terms, and provide for such sanctions and penalties as may be appropriate.

b. All contracts, amounts for which are in excess of \$2,500, shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

c. In all contracts for construction or facility improvement awarded in excess of \$100,000, grantees shall observe the bonding requirements provided in Attachment B to this circular.

d. All construction contracts awarded by recipients and their contractors or subgrantees having a value of more than \$10,000, shall contain a provision requiring compliance with Executive Order No. 11246, entitled "Equal Employment Opportunity," as amended by Executive Order No. 11375, and as supplemented in Department of Labor Regulations (41 CFR, Part 60).

e. All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.

f. When required by the Federal grant program legislation, all construction contracts awarded by grantees and subgrantees in excess of \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the grantor agency.

g. Where applicable, all contracts awarded by grantees and subgrantees in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under section 103 of the act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1-1/2 times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or

September 13, 1974

dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

h. Contracts or agreements, the principal purpose of which is to create, develop, or improve products, processes or methods; or for exploration into fields which directly concern public health, safety, or welfare; or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions, and materials generated under the contract or agreement are subject to the regulations issued by the Federal grantor agency. The contractor shall be advised as to the source of additional information regarding these matters.

i. All negotiated contracts (except those of \$10,000 or less) awarded by grantees shall include a provision to the effect that the grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

j. Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision which requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended. Violations shall be reported to the grantor agency and the Regional Office of the Environmental Protection Agency.